



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 2  
290 BROADWAY  
NEW YORK, NY 10007-1866

JAN 29 2015

Mr. Matthew Pavis  
370 St. Marks Place  
Staten Island, New York 10301

RE: EPA-R2-2014-003811  
Combined Sewer Overflows (CSOs)

Dear Mr. Pavis,

With respect to your Freedom of Information Act ("FOIA") request referenced above, this letter constitutes the Agency's initial denial of request for existing, located records, pursuant to 40 C.F.R. 2.104(h).

As you are aware, the Agency has already made two interim releases of responsive materials. Since the interim releases were made, EPA has located five additional records in its files that are responsive to your request. These are discussed below.

A review of the following four records indicates that portions are partially exempt from the FOIA's mandatory disclosure requirement:

1. Keeping Raw Sewage and Contaminated Stormwater Out of the Public's Water – December 2010
2. Keeping Raw Sewage and Contaminated Stormwater Out of the Public's Water – 2011
3. Keeping Raw Sewage and Contaminated Stormwater Out of the Public's Water - 2011
4. Keeping Raw Sewage and Contaminated Stormwater Out of the Public's Water -2011

Portions of the above-listed records are exempt from mandatory public disclosure under FOIA Exemption 5, 5 U.S.C. §552(b) (5), because they consist of opinions, recommendations, and other reflections of staff thinking integral to the pre-decisional deliberative process and are privileged as such. Redacted versions of these records are being provided with this letter.

In addition, please be advised that EPA has located another record in our files that is responsive to your request. EPA has determined that the document entitled "NYC CSO Case Update – Kushner Briefing (3-23-09)" is wholly exempt from mandatory disclosure pursuant to Exemption 5. This privileged record consists of opinions, recommendations, and other reflections of staff thinking integral to pre-decisional, deliberative process. This record is also exempt under FOIA Exemption 7(A), 5 U.S.C. § 552(b) (7)(A) as it was compiled for law enforcement purposes and includes information that could reasonably be expected to interfere with law enforcement proceedings.

Under the FOIA, you have the right to appeal this determination to the National Freedom of Information Officer, U.S. EPA, FOIA and Privacy Branch, 1200 Pennsylvania Avenue, N.W. (2822T), Washington, D.C. 20460 (U.S. Postal Service Only), E-mail: foia\_hq@epa.gov. Only items mailed through the United States Postal Service may be delivered to 1200 Pennsylvania Avenue, NW. If you are submitting your appeal via hand delivery, courier service or overnight delivery, you must address your correspondence to 1301 Constitution Avenue, N.W., Room 6416J, Washington, D.C. 20004. Your appeal must be made in writing, and it must be submitted no later than 30 calendar days from the date of this letter. The Agency will not consider appeals received after the 30 calendar day limit. The appeal letter should include the EPA number listed above. For quickest possible handling, the appeal letter and its envelope should be marked "Freedom of Information Act Appeal." For any questions concerning this matter, please contact Assistant Regional Counsel Eduardo Gonzalez at (212) 637-3223.

Sincerely,



Eric Schaaf  
Regional Counsel

Enclosures (via FOIA online)